

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

CIVIL REVISION APPLICATION No 516 of 1999

For Approval and Signature:

Hon'ble MR.JUSTICE M.S.PARIKH

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

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VIKRAMSINH JORAVARSINH RAHEVAR

Versus

UDESINH GAGATSINH RAHEVAR

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Appearance:

MR JV JAPEE for Petitioners

MR GAURANG H BHATT for Respondent No. 1

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CORAM : MR.JUSTICE M.S.PARIKH

Date of decision: 06/04/99

ORAL JUDGEMENT

Mr. Japee, the learned advocate appearing for the petitioners seeks to delete respondents Nos. 6, 20,21 and 22 since their cause is stated to have been represented by the petitioners. Leave is granted.

2. Rule. Service of rule is waived by Mr. G.H.Bhatt, learned advocate appearing for the respondents No. 1 to 5 and 7 to 19.

3. This revision application is directed against the impugned order dated 26th February, 1999 whereby the learned 2nd Joint Civil Judge, (S.D.), Himatnagar rejected the application Exh. 99 moved by the plaintiffs for adducing oral and documentary evidence in respect of issue No. 6A and 6B. After some amount of submissions, the learned advocates appearing for the parties have consented for recasting issue No. 6A as under :

"Whether the plaintiffs have a right to bring such type of partition suit against the co-purchaser when their father was alive ? What will be the effect of death of the plaintiffs' father during the pendency of the suit on the aforesaid part of this issue ?"

4. The trial Court will, therefore, recast issue No. 6A as aforesaid while deleting the second part of the issue "and in view of W.S. of defendant No. 23 at Exh. 24 of Joravarsinh Indrasinh such type of suit is maintainable?"

5. So far as issue No. 6B is concerned, it will be open to the parties to place on record the documents within two weeks from the date of receipt of this direction to the trial Court. It will be open to the trial Court to look into the documents which are already on record while dealing with issue No. 6B. Accordingly, the trial Court will hear and decide issue No. 6A & 6B. The parties will not be permitted to adduce any oral evidence since no questions of facts concerning the aforesaid two issues which would require oral evidence being adduced before the trial Court are suggested even before this Court.

6. The trial Court will decide the aforesaid issues as expeditiously as possible, preferably within four weeks from the date of receipt of this direction.

7. Rule is made absolute in aforesaid terms with no order as to cost.

Direct Service to either parties is permitted.

6.4.1999. (M.S.Parikh,J.)

